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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/13/09 has been entered. Claims 26-41 are pending. Claims 1-25 have been canceled.

2. The disclosure is objected to because Claim element "means to access" is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. The written description only implicitly or inherently sets forth the corresponding structure, material, or acts that perform the claimed function.

Pursuant to 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181, applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites the corresponding structure, material, or acts that perform the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function.

Appropriate correction is required.

3. The drawings are objected to because it is unclear how the interior pedestrian corridor 214 shown in figure 1 relates to the remaining structure. As understood and shown it appears to bisect the auto travel lanes which would seem undesirable. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 26-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim element “means to access” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. The specification fails to clearly set forth what the means for access is.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification that perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 26 and 28-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,830,518 to Mason.

Mason provides two units separated by a public street 50. One such unit can be considered an “entry garage” and the opposed unit may be considered an “exit garage”. Each unit is surrounded by a liner building comprised of stores or offices 18/22/27. The series of stores have entrances through both the outer 24 and inner walls 19 to permit access from all sides. Each unit has multiple parking levels. A central rectangular opening 41 or atrium is provided to insure plenty of light and ventilation.

The public street 50 meets the limitation of a pedestrian ground space extending from a first side of the entry garage to the first side of the exit garage.

An auto cross-over ramp is shown in figure 1 connecting the first sides of the units. Pedestrian can cross under the cross-over ramp [claim 28].

Mason provides a ground level entrance (ramp/driveway) through one side (the front) of the units and a ground level exit (ramp driveway) through one side of the units (the front).

Mason fails to provide that the entrance and exit ramps are away from both the first sides and the pedestrian ground space.

However, Mason states at page 5, lines 44+ that the ramps can be located at any part of the building desired.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the entrances and exits could have been provided on any of the sides of the units including the opposed second sides of the units. It would have been nothing other than an obvious matter of design choice absent any unexpected or unpredictable results. The suggestion for such a modification comes from Mason himself. The direction of flow of traffic also is viewed as nothing other than obvious choice of design. Mason provides all of the claimed structure and it would have been nothing other than a choice of design to determine a desired direction of traffic flow on or within the structure. There are no unexpected or unpredictable results achieved by changing or limiting a two directional traffic pattern to single unidirectional pattern.

Figure 1 shows cars parked at angle. To have added some parallel parking spaces would have been nothing other than an obvious choice of design. There would have been no unexpected or unpredictable results achieved by adding parallel parking spaces. It would have been nothing other than obvious routine engineering to maximize the amount of cars one can park in a given space.

To have added trees and other foliage within the atrium would have been nothing other than obvious choice of design to one having ordinary skill in the art at the time of the invention. Trees and other foliage are well known for use in atria and other open public spaces for aesthetics.

Mason provides columns 40.

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It is well known to provide a buffer corridor including HVAC and other utilities within commercial buildings and would have been obvious at the time of the invention to one having ordinary skill in the art to have provided one within the series of stores and offices of Mason.

8. Claim 27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art of record fails to teach or adequately suggest a mixed use crossover connecting the first sides of the garages at a level below and located underneath the auto cross-over ramp.

9. Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that Mason fails to provide a pedestrian ground space extending from the first side of entry garage to the first side of the exit garage. This is not found persuasive. Space/road 50 clearly extends from the first side of one unit to the first side of the opposed unit. Any space would meet the limitation since "pedestrian" only sets forth the intended use. However, Mason clearly shows pedestrians in the space between the garages.

The argument that Mason fails to teach the entrances and exits as claimed is moot in view of the new grounds of rejection which states it would have been obvious to move the entrance and exit as claimed as suggested by

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Mason. Mason teaches that the entrance and exit ramps may be located at any part of the building desired (page 5 lines 44+).

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. CANFIELD whose telephone number is (571)272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rich Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner
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